

20 June 2022

Our reference: 2022.0254

Mr Matthew Mukhtar
Statutory Planning
City of Melbourne
planning@melbourne.vic.gov.au

Dear Mr Mukhtar,

Re: Letter of Objection | TP-2022-161 - 253-257 Domain Road, South Yarra

Hansen Partnership acts on behalf of the Melbourne South Yarra Residents Group Inc in submitting an objection to planning permit application number TP-2022-161. The application is seeking to use and develop the site for a restricted place of assembly (private members club) and residential hotel, including a live music venue, liquor licence and reduction in car parking.

The objection submits that the proposal is contrary with the purpose of the General Residential Zone (GRZ5), inconsistent with local planning policy regarding discretionary uses in the GRZ (Clause 22.14) as well as licensed premises that require a planning permit (Clause 22.22). It is a large hospitality venue which is fundamentally inappropriate for the residential context within which it is proposed as it will result in unacceptable amenity outcomes for the area and its residents.

The following letter outlines the main issues that form the basis of this objection.

Inconsistent with Strategic Context

The subject site is located within an established residential neighbourhood of South Yarra. The precinct is notable for its quiet, treelined residential heritage character approximately 4 kilometres from the Central City. It is highly valued for its heritage built form character and proximity to the Central City as well as accessibility to significant parkland and a range of services and facilities in nearby activity centres. Limited non-residential uses are discretely located in residential building typologies within the surrounds. The site is located approximately 500 metres east of a small local activity centre along Domain Road.

Clause 21.04 and 21.16-1 of the Melbourne Planning Scheme recognises the residential character of the area and locates this section of South Yarra in a 'Stable Residential Area'. These locations are valued due to the contribution their existing character makes to the city. Limited change is to occur in these areas with new use and development fitting in with the existing valued residential character.

This is furthered at Clause 21.16-1, which locates the subject land within the St Kilda Road and South Yarra local area. The clause highlights that the 'stability' of the residential area of South Yarra is to be maintained:

“As South Yarra is an area of stability with minimal potential for new development, residential amenity has been maintained and the area’s historic character and features have been preserved.”

The context is therefore one that is highly residential in character. The stability of this context is to be maintained to ensure the residential amenity of the area is protected, including the Domain Road shopping area which is to be maintained as a neighbourhood focus. Any new use or development that would seek to disrupt this context should therefore be considered with a high level of caution.

It is noted that in the documentation supporting the proposed use, comparisons are drawn with the Soho House establishments in London and New York, which are in ‘residential areas’ thus implying a similar context to the subject site. We submit that relying on comparisons between residential areas of New York City, a city which has a population density of approximately 10,430 people per square kilometre, or Central London which has a density of approximately 6,070 people per square kilometre, to the City of Melbourne (within which South Yarra is located) which has a population density of approximately 4,505 people per square kilometre makes no sense. The residential and physical contexts of New York City and Central London where Soho Houses are located are completely different to the established residential context of South Yarra that a comparison between them is of no relevance or bearing on the outcome of this proposal.

In addition, a key pillar of planning policy in Victoria is facilitating retail, commercial, entertainment and cultural use and development to locate within activity centres (Clause 11.03-1S). This ensures that these non-residential uses are aggregated into convenient and highly accessible locations to create vibrant centres that support a wide range of community needs. A particular focus is placed on the role larger (higher order) activity centres play in supporting a full range of land uses across the day and night-time economy. Out-of-centre development is strongly discouraged in planning policy as this can undermine the role and function of activity centres (Clause 17.02-2S).

The nearest large activity centre to the site is along Chapel Street and Toorak Road, South Yarra (located within the municipality of Stonnington). This activity centre is identified as a Metropolitan Activity Centre and contains a diverse range of uses, including a significant number of night-time economy uses such as bars, clubs, and restaurants. Locating uses such as the one proposed in higher order activity centres such as this, means that negative externalities associated with noise and activity are more capable of being accommodated without impacting on residential areas. They are also more readily accessible, due to the greater range of transportation options available, and principal road location.

A higher order activity centre is likely to be a more appropriate place to accommodate the proposed use as it can more readily accommodate the hours of operation and expected levels of activity, including traffic. The introduction of a large scale hospitality venue in this residential context (and well within a residential land use zone) sets an undesirable precedent that is not supported in local planning policy and has the potential and threaten the viability and importance of activity centre policy.

As highlighted in the following sections, the proposal is not consistent with the strategic planning context of the area as it will undermine the stable residential amenity of this valued neighbourhood of South Yarra.

No Local Community Need and Inappropriate Scale for the Context

In relation to non-residential uses (discretionary uses), the purpose of the General Residential Zone (GRZ5) notes the following:

“To allow educational, recreational, religious, community and a limited range of other non-residential uses to serve local community needs in appropriate locations.”

In contrast to the residential purposes of the zone, and to the contrary of that outlined within the application documentation, non-residential uses are not 'encouraged' within the GRZ. Importantly, a limited range of non-residential uses may be 'allowed' where they serve local community needs in appropriate locations.

This focus on local community need is furthered within Council's 'Discretionary Uses in the Neighbourhood and General Residential Zones' policy at Clause 22.14 of the Planning Scheme. The policy recognises the importance of the city of Melbourne's established residential areas and their high quality and attractive residential environments. These residential environments are highly valued by their residents. It recognises the 'threat' posed to the amenity of these established residential areas by their proximity to the Central City and thus their attractiveness for uses that are not focussed on local needs and incompatible with residential amenity. The policy seeks to ensure that only non-residential uses are established in residential zones where they are compatible with the residential character and amenity and serve the needs of the local community.

New non-residential uses are discouraged where they would have a negative impact on residential amenity or are more appropriately located within a commercial or mixed-use zones.

The policy also highlights the importance of discouraging non-residential uses *"unless there is a net benefit to local residents and the local community"* and that the intensity of the use is appropriate to its residential context.

The proposal performs poorly when assessed against this policy as well as the decision guidelines for non-residential uses within the GRZ.

In particular, we highlight that:

- The proposal is not addressing a local community need or need of local residents and will have limited local benefits. As noted in the application documentation, half of the clientele are expected to be from international and interstate locations. At best, the proposal may have limited regional benefits for Victorian members of the private club.
- The application documentation has not appropriately established the local residents or community need for the proposal or the net benefit it will provide to the local community. Moreover, it has not established the need for a hospitality venue of this scale within a sensitive residential context. It has no religious, educational, recreational or community based association with local residents or the area.
- There are no similar commercial uses within the surrounds of the intensity proposed. The application documentation makes reference to Airlie Conference Centre adjacent to the site and the Italian Institute of Culture to the west as setting a precedent within the area for commercial uses. From our research, the 'Airlie Conference Centre' is known as the Airlie Leadership Development Centre and is operated/owned by the Victoria Police and not promoted as a widely accessible or commercially run facility. Moreover, it has vehicular access direct from Punt Road (as well as Domain Road). The Italian Culture Centre at 233-235 Domain Road runs small language classes and according to its website, is occasionally used for cultural events with a capacity of maximum 100 people. Neither of these two uses appear to operate late at night nor have on premises liquor licences. These two primarily educational/cultural uses serve the local community and are of a scale and nature that is commensurate with their residential context. They are clearly not operated for commercial purposes and hardly a relevant comparison to the proposed hospitality venue which proposes a capacity of nearly 500 people and near 24 hour operations. Having regard to the policy for discretionary uses, these two examples of nearby 'non-residential' uses are of a fundamentally less intensive scale and nature than the proposed hospitality venue that comparing them to one another is absurd.
- In addition to the above, we note the Melbourne Girls Grammar indoor sports complex, the Artemis Centre in Anderson Street (north west of the site), is available outside school hours to the South Yarra community offering community swimming, gymnastics and holiday programs. Similar to the Airlie Leadership Development Centre and

the Italian Culture Centre, the hours of operation are limited, there is no night time operation and the premises does not have a liquor licence. According to the schedules available on its website, the centre is available for community use after school until 6pm with limited usage on weekends. The intensity and nature of this community and health based use is not comparable to the proposed hospitality venue.

- The application documentation also makes reference to the site's proximity to Punt Road as justification for the proposed use. We note that the proposal addresses Domain Road, which has a significantly different character to Punt Road. The local 40km per hour street predominantly services the local community and has an established residential character. The existing and proposed use of the subject site has no vehicular access or pedestrian entry from Punt Road, all access is from its Domain Road frontage. We note the Acoustic report submitted with the application measured the background noise levels on the eastern perimeter (Punt Rd) and western perimeter (adjoining 249-251 Domain Road) of the subject site. It found that there is a significant drop in background noise levels from the eastern boundary to the western boundary of the site (a distance of approximately 50 metres), reinforcing the primarily residential character of the neighbourhood behind the Punt Road spine.
- Given the application documentation fails to demonstrate how the proposed hospitality venue meets a local or community need, the proposal is more appropriately located within a commercial or mixed use zone as encouraged by Clause 22.14 where its amenity impacts are more manageable and residential amenity expectations differ to those living in a residential zone.
- The amount and intensity of activity that will be generated by the proposal, which will see 481 patrons on site at any one time, is inconsistent with its established residential context. The proposal will also generate further activity associated with staff, waste removal, external hires such as entertainers, and fans and paparazzi, due to the nature of the clientele. We highlight the level of activity generated by fans and paparazzi outside the NYC Soho House in Manhattan when Harry Styles [visited](#).
- The residential context of the site and surrounds is further demonstrated by the regular use of Domain Road by students from Melbourne Girls Grammar to walk between its junior campus in Caroline St (east of Punt Road) and its main school campus in Anderson St (to the west). The application fails to demonstrate an understanding of how Domain Road is currently used and the impact of the proposed use and associated activities on and off the site on the safety and accessibility of this part of Domain Road for pedestrians.

Non-residential uses within a residential zone can be contemplated where the use is of a scale or intensity that can comfortably be accommodated within its residential setting, does not impact on the amenity of the area and is servicing a local community need. Strategically, we do not believe the proposal is of a nature that can comfortably be accommodated within this section of South Yarra. The intensity of the use will result in negative impacts to the local residents that are inappropriate for the residential location. We address this next.

Unacceptable Hours of Operations

The proposed hours of operation are completely inappropriate for the residential context and unlike anything within the surrounding area.

The proposal will see patrons entering and exiting the venue up until 1am Sunday to Thursday and as late as 3am on Friday and Saturday nights. The residential hotel component of the proposal will be open 24 hours, seven days a week. Meaning guests will be arriving and leaving at all hours of the day.

Clause 22.22 (Policy for licensed premises that require a planning permit) discourages licensed premises from locating within a residential zone. In addition, it specifically notes that:

"Operating hours beyond normal business hours (9am – 6pm) for licensed premises in the Residential 1 Zone beyond will be discouraged."

The policy also discourages taverns, hotels and nightclubs of more than 100 patrons and hours of operation later than 1am, from the Capital City Zone (CCZ).

Within this policy context, the proposal is completely at odds with ensuring an acceptable planning outcome is achieved on the site. By proposing a large scale hospitality venue capable of accommodating 481 patrons to as late as 3am, the proposal is of a scale that is directly discouraged even in the CCZ unless provided with appropriate protections, let alone a more sensitive residential zone where such uses should not be located at all.

This highlights the unsuitable nature of the proposal in terms of its scale and extended hours of operation within a sensitive residential environment.

Unacceptable Noise Impacts

The proposal will generate a significant level of noise emissions that will be disruptive to local residents. These emissions are associated with music, including live entertainment, patrons, vehicles, waste collection, and mechanical plants and equipment. They extend to noises emitted within the boundaries of the venue as well as those beyond the boundaries (and thus the control) of the venue.

In general, a venue that will allow for 481 patrons, both in internal and external locations, raises significant risks for managing noise emissions within an acoustically sensitive residential location, regardless of any proposed management strategies. It is noted that the supporting documentation indicates the venue will be available to members and signed-in guests, accordingly, it is not limited to a 'members only' venue. All noise emitting situations cannot be mitigated against and the risks of situations arising that will generate unacceptable levels of noise for local residents that will be an ongoing nuisance becomes greater at such a scale and within a sensitive residential context.

The proposed venue management plan may purport to have the capacity to 'control' internal operations (being those within the boundaries of the venue) but cannot control external noise. For example, it cannot force patrons to leave their vehicles at an alternative location and quietly enter/leave the venue upon arrival/departure, it cannot enforce cabs/Ubbers or other rideshare providers (or private vehicles) to park their vehicles in a designated parking space while dropping off/picking up customers, it cannot control patron behaviour outside the boundaries of the venue such as car doors slamming during the night, conversations, people milling around or queuing to get into the venue etc.

We note the application is supported by an acoustic report that in summary, concludes that subject to an extensive array of measures and strategies being implemented, that the noise generated within the premises will be within acceptable limits. Whilst we outline a number of concerns with this conclusion below, we note that no consideration has been given in the acoustic assessment, to the proximity of living spaces and in particular, bedrooms on adjoining residential properties to the south and west, and the implications of the noise generated by the proposed use (within and outside the site boundaries) on sleep disturbance and the ability (or otherwise) of residents being able to leave windows open at night, to enjoy outdoor living spaces etc. Nor does the assessment identify or consider the impact of noise associated with patrons arriving at or leaving the premises throughout the day and night in Domain Road and surrounding local streets.

Therefore, on first principles, we do not believe a hospitality venue catering for up to 481 patrons and operating during sensitive night-time periods can be adequately managed to mitigate against ongoing noise issues within this residential context.

In addition, we note the application outlines management strategies, however, we highlight the following issues.

Music

- The Venue Management Plan does not outline how certain management strategies to mitigate noise emissions suggested by the acoustic report will be implemented, such as:

- The need to ensure the doors to the airlock are closed at all times to mitigate noise emissions from the live music venue.
 - It is unclear from the plans which windows are operable and how staff will manage when windows are to be closed in line with the recommendations of the acoustic report.
 - How bands and live entertainers will be vetted to ensure they comply with noise thresholds.
 - The use of noise limiters.
- It does not appear that an assessment has been carried out regarding the impacts of amplified music, recorded or otherwise, in external locations of the venue. There are no management strategies identified to control noise levels associated with such emissions.

Patrons

- The acoustic assessment of patron noise is based on a hypothetical number of patrons in each location of the venue. In particular, 29 in the outdoor pool area and 94 in the garden restaurant. However, it is unclear how patron numbers will be capped in these locations to ensure compliance with noise level thresholds. Particularly considering the predicted noise levels at some of the noise receivers have been assessed to only just comply with the criteria.
- The acoustic report has assumed and recommends that patrons will not be in external locations from 10pm to 7am, as well as a range of other matters. However, this is not identified within the venue management plan. Moreover, this conflicts with the planning report which proposes that the external spaces will be open until 11pm Sunday to Thursday and 12am Friday to Saturday.

Vehicles

- It is unclear whether the acoustic assessment was prepared in the context of the valet parking system. This will involve the ongoing opening and closing of car doors as vehicles arrive and leave throughout the night. Such noise is more disruptive and carries further than noise associated with idling vehicles. This is something that cannot be mitigated or managed. Such noise emissions carry through to those parking along Domain Rd, those waiting to be picked up etc

To address these and other identified management issues, should a planning permit be issued, it would require a significant number of permit conditions to address and enforce compliance with noise emission standards. It necessitates manufacturing an outcome through multiple mitigation strategies and measure which may or may not be compatible with the residential amenity of the area. We question whether this is an appropriate approach that will achieve an acceptable planning outcome or rather, an approach that points to the inherent risks associated with the proposal in a residential context that will require ongoing enforcement by Council. We submit Council must apply a precautionary approach to assessing whether or not noise emissions that would be generated by and associated with this large scale hospitality venue is acceptable, and then whether or not they can be appropriately managed both on and off the site.

Unacceptable Car Parking and Traffic Impacts

The proposal relies on a significant reduction in the statutory car parking requirement generated by the proposed use.

Clause 22.14 of the Planning Scheme seeks to ensure that:

"Non-residential uses should not result in significant changes to traffic conditions in local streets or significantly increase demand for on-street car parking."

We do not believe the mechanisms proposed to manage the car parking rate reduction are sufficient to justify the proposed limited number of on-site car parking spaces. There are a significant number of uncertainties associated with the proposed traffic and car parking management systems to address the shortfall in on-site car parking that mean the proposal will likely have unacceptable impacts on the traffic conditions and car parking within local streets.

Off-site Car Parking

We question whether the proposed off-site car parking spaces are a viable option for the venue.

We note that the car parking spaces are owned by an entity associated with the proposed venue. However, we raise concern with the ability to enforce the obligation to provide the spaces to the venue in perpetuity, such as if, and or when, the building and car parking spaces are sold. Such an obligation would need to be reflected on Title. Should these spaces become unavailable then more than half of the proposed car parking spaces for the venue will be removed.

The spaces are also located a significant distance from the venue. The reliance on a bus shuttle service assumes patrons are willing to utilise such a service. We question whether the clientele will be willing to utilise a bus shuttle service and not prefer to forego the hassle and utilise on-street car parking options. The venue management plan cannot enforce the utilisation of the shuttle service nor prevent patrons parking on the streets around the venue.

Valet Parking

We have reservations about how the valet parking will mitigate and manage queuing in the street.

The valet parking assessment has been based on a conservative assumption of 29 movements over a 90-minute period. We understand the 42 car parking spaces on site will be available for valet parking. Regardless of the assumptions built into the analysis, the total capacity of the valet parking system should be assessed to understand the implications associated with the valet parking system, particularly as it relates to vehicle queuing.

The effective operation of valet parking relies on a number of variables, such as, but not limited to:

- The pattern of arrival of vehicles. Vehicles will not necessarily arrive evenly spaced at the venue over a 90-minute period, particularly for events.
- The timely coordination of vehicles and the number of valet staff.
- The number of vehicles capable of being accommodated in the driveway, noting only one holding bay is proposed.
- Willingness of patrons to utilise the valet system (or wait for valet parking) and to not prefer on-street parking.

All of these have implications for the queuing of vehicles and the spilling out of vehicles onto the local streets. Cars would either be forced to use the three proposed restricted car parking spaces while they wait, and therefore undermine the use of these designated spaces for ride share and taxis, or double park within the street while they queue. We note the proximity of the site's access point to the signalised intersection of Domain Road and Punt Road (to the east) and that this section of Domain Road is marked with a single continuous dividing line (meaning it is illegal to overtake or do a U-turn).

This would not result in an acceptable planning outcome and would impact on traffic conditions within the street.

Restricted On-street Car Parking Spaces

The proposal relies on the creation of three restricted car parking bays along the Domain Road frontage to accommodate a suitable location of ride share and taxi service drop-off. Currently the spaces are restricted to two hours. The removal of these car parking spaces within the street will place greater impact on the availability of car parking along Domain Road. The traffic assessment notes that car parking along Domain Road is close to capacity on Saturday evenings, which are likely to coincide with the busiest times for the proposed hospitality venue.

The creation of these bays is hypothetical as Council has not approved of this change to car parking restrictions along the frontage of the site. Accordingly, the proposal will create unacceptable traffic movement implications along Domain Road from drop-offs and pick-ups from the venue, extending to restricting local residents from moving through Domain Road or leaving/entering their properties.

Cumulative Impact on Heritage

Poolman House is one of a diminishing number of grand old homes in South Yarra, free standing, visually impressive and in a corner position, where it is more noticeable. Its special character will be diminished by its conversion into a large scale hospitality venue that is not anticipated in an established residential context, valued for its heritage residential character. The adaptive re-use of this important heritage place must be commensurate with its residential context and heritage. The proposal has failed to demonstrate the compatibility of the proposed large scale hospitality venue with its residential heritage.

Summary of objections

This objection submits the following:

- The proposal is not consistent with the GRZ5, activity centre policy and policies for discretionary uses in the GRZ and licensed premises.
- The subject site is located within a 'stable residential area', the protection of which is enshrined in local planning policy. Any new use or development that would seek to undermine this should be considered with a high level of caution to ensure the residential amenity of the area is protected.
- The proposal does not seek to address a local community need and will have limited local benefits. The need for a private members venue of this scale within a sensitive residential context, outside a high order activity centre or commercial or mixed use zone, has not been established.
- The hours of operation, number of patrons, and intensity of activity that will likely be generated by the proposal is unacceptable and fundamentally at odds with this established residential neighbourhood.
- Due to its scale, the proposal will likely result in unacceptable noise impacts on surrounding residential land and residents.
- The extent of permit conditions that will likely be required to ensure noise impacts may be managed (and reliance on Council enforcement) appropriately creates a high level of risk and uncertainty as to whether the proposal can function successfully within its context without undermining existing residential amenity.
- There are uncertainties associated with the proposed mechanisms to manage the car parking rate reduction. As a result, the provision of a limited number of on-site car parking spaces will likely result in unreasonable outcomes for traffic conditions on surrounding local streets and the availability of on-street car parking.

If you have any questions, please contact the undersigned on 0418 530 210 or via email at srigo@hansenpartnership.com.au.

Yours faithfully,
Hansen Partnership Pty Ltd

A handwritten signature in black ink, appearing to read 'S. Rigo', with a stylized flourish at the end.

Sandra Rigo | **Director**